

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

NORMAN PECK,)	
)	
Plaintiff,)	
)	
v.)	No. 1:18-cv-03989-RLY-TAB
)	
REV-1 SOLUTIONS, LLC,)	
)	
Defendant.)	

ORDER ON PLAINTIFF'S MOTION TO STRIKE


This matter is before the Court on Plaintiff Norman Peck's motion to strike, which asks the Court to strike all of Defendant Rev-1 Solutions, LLC ("Rev-1")'s filings from the public record. [\[Filing No. 60.\]](#) Peck claims Rev-1 defaulted and lost its standing to file paperwork by failing to respond to Plaintiff's April 8, 2019, "Notice of Lawsuit and Request to Waive Service of Summons" [\[Filing No. 8\]](#). [\[Filing No. 61, at ECF p. 3.\]](#) Rev-1 opposes the motion. [\[Filing No. 64.\]](#)

As Rev-1 noted in its response to Peck's motion, the April 8 "Notice of Lawsuit and Request to Waive Service of a Summons" [\[Filing No. 8\]](#) was not a summons or formal service pursuant to [Fed. R. Civ. P. 4\(c\)](#), 4(e), or 4(h), and Rev-1 was not required to respond to it. [\[Filing No. 64, at ECF p. 1.\]](#) The notice stated: "If you do not return the signed waiver within the time indicated, the court will direct that appropriate steps be taken to effect formal service in a manner authorized by the Federal Rules of Civil Procedure[.]" [\[Filing No. 8, at ECF p. 2.\]](#) On July 23, 2019, the Court entered an order directing service, which noted that Rev-1 had not waived formal service and directed the Clerk to issue the summons and complaint to Rev-1 by certified mail. [\[Filing No. 17.\]](#) The Court also issued a second "Notice of Lawsuit and Request

to Waive Service of a Summons" on that same day. [[Filing No. 18](#)]. On August 6, 2019, Rev-1 timely responded to that notice and executed the waiver of service. [[Filing No. 19](#).] Rev-1's attorney entered an appearance that same date. [[Filing No. 20](#).] Rev-1 timely filed its responsive pleading to Plaintiff's complaint on September 20, 2019. [[Filing No. 25](#).]

Rev-1 was under no obligation to respond to the first notice and request for waiver. Moreover, Rev-1 did not receive the summons and complaint until after July 23, 2019. Thus, Rev-1's actions were proper and do not support a finding of default. Accordingly, Peck's motion to strike [[Filing No. 60](#)] is denied.

Date: 6/10/2020



Tim A. Baker
United States Magistrate Judge
Southern District of Indiana

Distribution:

All ECF-registered counsel of record via email

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